

## Drug Enforcement Administration, Justice

## § 1308.22

(d) *Stimulants*. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

- (1) Pyrovalerone .....1485.  
(2) [Reserved]

[39 FR 22143, June 20, 1974, as amended at 43 FR 38383, Aug. 28, 1978; 44 FR 40888, July 13, 1979; 47 FR 49841, Nov. 3, 1982; 50 FR 8108, Feb. 28, 1985; 52 FR 5952, Feb. 27, 1987; 53 FR 10870, Apr. 4, 1988; 56 FR 61372, Dec. 3, 1991; 67 FR 62370, Oct. 7, 2002]

### EXCLUDED NONNARCOTIC SUBSTANCES

#### § 1308.21 Application for exclusion of a nonnarcotic substance.

(a) Any person seeking to have any nonnarcotic substance which may, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301), be lawfully sold over the counter without a prescription, excluded from any schedule, pursuant to section 201(g) (1) of the Act (21 U.S.C. 811 (g) (1)), may apply to the Administrator, Drug Enforcement Administration, Department of Justice, Washington, DC 20537.

(b) An application for an exclusion under this section shall contain the following information:

(1) The name and address of the applicant;

(2) The name of the substance for which exclusion is sought; and

(3) The complete quantitative composition of the substance.

(c) Within a reasonable period of time after the receipt of an application for an exclusion under this section, the Administrator shall notify the applicant of his acceptance or nonacceptance of his application, and if not accepted, the reason therefore. The Administrator need not accept an applica-

tion for filing if any of the requirements prescribed in paragraph (b) of this section is lacking or is not set forth as to be readily understood. If the applicant desires, he may amend the application to meet the requirements of paragraph (b) of this section. If the application is accepted for filing, the Administrator shall issue and publish in the FEDERAL REGISTER his order on the application, which shall include a reference to the legal authority under which the order is issued and the findings of fact and conclusions of law upon which the order is based. This order shall specify the date on which it shall take effect. The Administrator shall permit any interested person to file written comments on or objections to the order within 60 days of the date of publication of his order in the FEDERAL REGISTER. If any such comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which the order is based, the Administrator shall immediately suspend the effectiveness of the order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Administrator shall reinstate, revoke, or amend his original order as he determines appropriate.

(d) The Administrator may at any time revoke any exclusion granted pursuant to section 201(g) of the Act (21 U.S.C. 811(g)) by following the procedures set forth in paragraph (c) of this section for handling an application for an exclusion which has been accepted for filing.

#### § 1308.22 Excluded substances.

The following nonnarcotic substances which may, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301), be lawfully sold over the counter without a prescription, are excluded from all schedules pursuant to section 201(g) (1) of the Act (21 U.S.C. 811(g) (1)):

#### EXCLUDED NONNARCOTIC PRODUCTS

Company	Trade name	NDC code	Form	Controlled substance	(mg or mg/ml)
Bioline Laboratories .....	Theophed .....	00719-1945	TB	Phenobarbital .....	8.00
Goldline Laboratories .....	Guiaphed Elixir .....	00182-1377	EL	Phenobarbital .....	4.00
Goldline Laboratories .....	Tedrigen Tablets .....	00182-0134	TB	Phenobarbital .....	8.00
Hawthorne Products Inc ...	Choate's Leg Freeze .....	.....	LQ	Chloral hydrate .....	246.67
Parke-Davis & Co .....	Tedral .....	00071-0230	TB	Phenobarbital .....	8.00

## EXCLUDED NONNARCOTIC PRODUCTS—Continued

Company	Trade name	NDC code	Form	Controlled substance	(mg or mg/ml)
Parke-Davis & Co .....	Tedral Elixir .....	00071–0242	EX	Phenobarbital .....	40.00
Parke-Davis & Co .....	Tedral S.A. ....	00071–0231	TB	Phenobarbital .....	8.00
Parke-Davis & Co .....	Tedral Suspension .....	00071–0237	SU	Phenobarbital .....	80.00
Parmed Pharmacy .....	Asma-Ese .....	00349–2018	TB	Phenobarbital .....	8.10
Rondex Labs .....	Azma-Aids .....	00367–3153	TB	Phenobarbital .....	8.00
Smith Kline Consumer .....	Benzedrex .....	49692–0928	IN	Propylhexedrine .....	250.00
Sterling Drug, Inc .....	Bronkolixir .....	00057–1004	EL	Phenobarbital .....	0.80
Sterling Drug, Inc .....	Bronkotabs .....	00057–1005	TB	Phenobarbital .....	8.00
Vicks Chemical Co .....	Vicks Inhaler .....	23900–0010	IN	l-Desoxyephedrine .....	113.00
White Hall Labs .....	Primatene (P-tablets) .....	00573–2940	TB	Phenobarbital .....	8.00

[38 FR 8255, Mar. 30, 1973. Redesignated at 38 FR 26609, Sept. 24, 1973, and amended at 41 FR 16553, Apr. 20, 1976; 41 FR 53477, Dec. 7, 1976; 46 FR 51603, Oct. 21, 1981; 47 FR 45867, Oct. 14, 1982; 54 FR 2100, Jan. 19, 1989; 55 FR 12162, Mar. 30, 1990; 62 FR 13968, Mar. 24, 1997]

## EXEMPT CHEMICAL PREPARATIONS

**§ 1308.23 Exemption of certain chemical preparations; application.**

(a) The Administrator may, by regulation, exempt from the application of all or any part of the Act any chemical preparation or mixture containing one or more controlled substances listed in any schedule, which preparation or mixture is intended for laboratory, industrial, educational, or special research purposes and not for general administration to a human being or other animal, if the preparation or mixture either:

(1) Contains no narcotic controlled substance and is packaged in such a form or concentration that the packaged quantity does not present any significant potential for abuse (the type of packaging and the history of abuse of the same or similar preparations may be considered in determining the potential for abuse of the preparation or mixture); or

(2) Contains either a narcotic or non-narcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion, or concentration, that the preparation or mixture does not present any potential for abuse. If the preparation or mixture contains a narcotic controlled substance, the preparation or mixture must be formulated in such a manner that it incorporates methods of denaturing or other means so that the preparation or mixture is not liable to be abused or have ill effects, if abused, and so that the

narcotic substance cannot in practice be removed.

(b) Any person seeking to have any preparation or mixture containing a controlled substance and one or more noncontrolled substances exempted from the application of all or any part of the Act, pursuant to paragraph (a) of this section, may apply to the Administrator, Drug Enforcement Administration, Department of Justice, Washington, DC 20537.

(c) An application for an exemption under this section shall contain the following information:

(1) The name, address, and registration number, if any, of the applicant;

(2) The name, address, and registration number, if any, of the manufacturer or importer of the preparation or mixture, if not the applicant;

(3) The exact trade name or other designation of the preparation or mixture;

(4) The complete qualitative and quantitative composition of the preparation or mixture (including all active and inactive ingredients and all controlled and noncontrolled substances);

(5) The form of the immediate container in which the preparation or mixture will be distributed with sufficient descriptive detail to identify the preparation or mixture (e.g., bottle, packet, vial, soft plastic pillow, agar gel plate, etc.);

(6) The dimensions or capacity of the immediate container of the preparation or mixture;